

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Appellant:	Harville et al..	Patent Application
Serial No.:	10/613,905	Group Art Unit: 2142
Filed:	07/04/2003	Examiner: Biagini, Christopher D.

For: Method for Managing A Streaming Media Service

Appeal Brief

Table of Contents

	<u>Page</u>
Real Party in Interest	2
Related Appeals and Interferences	3
Status of Claims	4
Status of Amendments	5
Summary of Claimed Subject Matter	6
Grounds of Rejection to be Reviewed on Appeal	8
Arguments	9
Claims Appendix	13
Evidence Appendix	17
Related Proceedings Appendix	18

Real Party in Interest

The assignee of the present invention is Hewlett-Packard Company.

Related Appeals and Interferences

There are no related appeals or interferences known to the Appellant.

Status of Claims

Claims 1-24 stand rejected. Rejections of claims 1-24 are herein appealed.

Status of Amendments

All proposed amendments have been entered. An amendment subsequent to the Final Action has not been filed.

Summary of Claimed Subject Matter

Independent Claim 1 recites a method (1300 of Figure 13 and page 53, line 1) for managing a streaming media service. The method (1300 of Figure 13 and page 53, line 1) includes receiving (1302 of Figure 13 and page 53, lines 18-20) a request for a streaming media service from a client (110, 112, 114, 116, 118 and 120 of Figure 2 and page 8, line 23), the streaming media service comprising a plurality of media services components and determining which media service component of the plurality of media services components to assign to a service node of a plurality of service nodes (202, 204 and 206 of Figure 2 and page 11, line 3) of a network. The method (1300 of Figure 13) further includes informing (1306 of Figure 13 and page 54, line 1) each service node assigned to perform a media service component of the plurality of media services components, enabling the streaming media service to be performed on a streaming media and reassigning the determined media service component to a different service node selected from the plurality of services nodes while continuing to provide the streaming media (210 of Figure 2 and page 9, line 25) to the client.

Independent Claim 13 recites a system for managing a streaming media service. The system includes a plurality of service nodes (202, 204 and 206 of Figure 2 and page 11, line 3) for performing a streaming media service on streaming media (208 of Figure 2 and page 9, line 23), the streaming media service comprising a plurality of media services components. The system also

includes a client (110, 112, 114, 116, 118 and 120 of Figure 2 and page 8, line 23) for requesting said streaming media service and a manager (302 of Figure 3 and page 12, line 9) coupled to the plurality of service nodes (110, 112, 114, 116, 118 and 120 of Figures 2 and 3 and page 8, line 23) of a network and the client (110, 112, 114, 116, 118 and 120 of Figure 2 and page 8, line 23) and for determining which service node to assign to perform each media service component of the plurality of media services components, wherein the manager (302 of Figure 3 and page 12, line 9) is configured for reassigning a media service component from one service node to another service node selected from the plurality of services nodes while continuing to provide the streaming media to the client (page 12, lines 5-10). The system also includes a service builder coupled to the manager and for communicating a list of the plurality of media services components to the manager.

Grounds of Rejection to be Reviewed on Appeal

1. Claims 1-24 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,407,680 by Lai et al. (referred to hereinafter as “Lai”) in view of Wei Tsang Ooi et al. (Distributing Media Transformation Over Multiple Media Gateways).

Arguments

1. Whether Claims 1-24 are patentable over U.S. Patent No. 6,407,680 by Lai et al. (referred to hereinafter as “Lai”) in view of Wei Tsang Ooi et al. (Distributing Media Transformation Over Multiple Media Gateways).

Applicants respectfully submit that embodiments of the present invention are neither taught nor suggested by Lai in view of Ooi.

Applicants would like to point out inconsistencies in the current Office Action. Specifically, on page 3, the current Office Action cites Wei Tsang Ooi “Distributing Media Transformation Over Multiple Media Gateways.” However, on the “Notice of References Cited” portion, the title of the Ooi reference is “An Adaptive Protocol for Locating Programmable Media Gateways.”

Applicants have not been successful in locating a reference by Ooi entitled “Distributing Media Transformation Over Multiple Media Gateways” as cited on page 3 of the current Office Action. Applicants believe the title provided on page 3 of the current Office Action to be a typographical error and Applicants assume the title in the “Notice of References Cited” portion to be correct. As such, Applicants have prepared the response to the current Office Action based on the Ooi reference “An Adaptive Protocol for Locating Programmable Media Gateways.” Applicants have been successful in locating this reference.

Furthermore, Ooi, “An Adaptive Protocol for Locating Programmable Media Gateways,” includes pages 137-145. However, the current Office Action cites Ooi “Distributing Media Transformation Over Multiple Media Gateways,”

pages 162 and 163. Applicants assume the pages cited are typographical errors and will assume the pages should read 142 and 143 of the “An Adaptive Protocol for Locating Programmable Media Gateways” reference.

Previously Presented independent Claim 1 recites,

A method for managing a streaming media service, said method comprising:

receiving a request for a streaming media service from a client, said streaming media service comprising a plurality of media services components;

determining which media service component of said plurality of media services components to assign to a service node of a plurality of service nodes of a network;

informing each service node assigned to perform a media service component of said plurality of media services components, enabling said streaming media service to be performed on a streaming media; and

reassigning the determined media service component to a different service node selected from the plurality of services nodes while continuing to provide the streaming media to the client.

As stated previously, Lai does not teach or suggest, among other things, “reassigning the determined media service component to a different service node selected from the plurality of services nodes while continuing to provide the streaming media to the client,” as recited by Claim 1. The Examiner concurs with this deficiency and cites Ooi as teaching this claimed feature.

Applicants respectfully disagree with the Examiner that Ooi remedies the deficiencies of Lai. Specifically, Applicants submit that Ooi fails to teach or suggest “reassigning the determined media service component to a different service node selected from the plurality of services nodes while continuing to provide the streaming media to the client,” as recited by Claim 1.

“As reiterated by the Supreme Court in *KSR*, the framework for the objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). Obviousness is

a question of law based on underlying factual inquiries” including “[a]scertaining the differences between the claimed invention and the prior art” (MPEP 2141(II)). “In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious” (emphasis in original; MPEP 2141.02(I)). Applicants note that “[t]he prior art reference (or references when combined) need not teach or suggest all the claim limitations, however, Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art” (emphasis added; MPEP 2141(III)).

Applicants understand Ooi to teach allowing multiple clients to receive a post processed stream from gateways (Ooi, page 143, section 4.1). However, the claimed invention features “reassigning the determined media service component to a different service node selected from the plurality of services nodes while continuing to provide the streaming media to the client,” This is very different from allowing multiple clients to receive a post processed stream from gateways.

For the forgoing reasons, Claim 1 should be patentable over Lai in view of Ooi. For similar reasons independent Claim 13 should be patentable over Lai in view of Ooi. Claims 2-12 depend on independent Claim 1. Claims 14-24 depend on Independent Claim 13. These dependent claims include all of the limitations of their respective independent claims. Therefore, these dependent claims should be patentable for at least the reasons that their respective independent claims should be patentable.

The Appellant wishes to encourage the Examiner or a member of the Board of Patent Appeals to telephone the Appellant's undersigned representative if it is felt that a telephone conference could expedite prosecution.

Respectfully submitted,

WAGNER BLECHER LLP

Date: 3/28/2008

/John P. Wagner, Jr./

John P. Wagner, Jr.

Registration Number: 35,398

WAGNER BLECHER LLP
WESTRIDGE BUSINESS PARK
123 WESTRIDGE DRIVE
WATSONVILLE, CALIFORNIA 95076
408-377-0500

Claims Appendix

1. A method for managing a streaming media service, said method comprising:
 - receiving a request for a streaming media service from a client, said streaming media service comprising a plurality of media services components;
 - determining which media service component of said plurality of media services components to assign to a service node of a plurality of service nodes of a network;
 - informing each service node assigned to perform a media service component of said plurality of media services components, enabling said streaming media service to be performed on a streaming media; and
 - reassigning the determined media service component to a different service node selected from the plurality of services nodes while continuing to provide the streaming media to the client.
2. The method as described in Claim 1, wherein said streaming media is selected from video, audio, multimedia, and text.
3. The method as described in Claim 1, wherein said determining is based on the location of said client.
4. The method as described in Claim 1, wherein said determining is based on bandwidth of said network.
5. The method as described in Claim 1, wherein said determining is based on load on said network.
6. The method as described in Claim 1, wherein said determining is based on load on each service node of said plurality of service nodes.

7. The method as described in Claim 1, wherein said determining is based on an existing streaming media service on said network.

8. The method as described in Claim 1, wherein said determining is based on a previously assigned media service component.

9. The method as described in Claim 1, wherein said receiving said request is through a service portal.

10. The method as described in Claim 1, further comprising:
generating an input communication socket and an output communication socket for each assigned service node to enable communication between said assigned service nodes.

11. The method as described in Claim 10, wherein said input communication socket enables decompressing said streaming media.

12. The method as described in Claim 10, wherein said output communication socket enables compressing said streaming media.

13. A system for managing a streaming media service, said system comprising:

a plurality of service nodes for performing a streaming media service on streaming media, said streaming media service comprising a plurality of media services components;

a client for requesting said streaming media service;

a manager coupled to said plurality of service nodes of a network and said client and for determining which service node to assign to perform each media service component of said plurality of media services components, wherein the

manager is configured for reassigning a media service component from one service node to another service node selected from the plurality of services nodes while continuing to provide the streaming media to the client; and
a service builder coupled to said manager and for communicating a list of said plurality of media services components to said manager.

14. The system as described in Claim 13, wherein said streaming media is selected from video, audio, multimedia, and text.

15. The system as described in Claim 13, wherein said determining is based on the location of said client.

16. The system as described in Claim 13, wherein said determining is based on bandwidth of said network.

17. The system as described in Claim 13, wherein said determining is based on load on said network.

18. The system as described in Claim 13, wherein said determining is based on load on each service node of said plurality of service nodes.

19. The system as described in Claim 13, wherein said determining is based on an existing streaming media service on said network.

20. The system as described in Claim 13, wherein said determining is based on a previously assigned media service component.

21. The system as described in Claim 13, wherein said requesting is through a service portal.

22. The system as described in Claim 13, wherein each of said plurality of service nodes generates an input communication socket and an output communication socket to enable communication between assigned service nodes.

23. The system as described in Claim 22, wherein said input communication socket enables decompressing said streaming media.

24. The system as described in Claim 22, wherein said output communication socket enables compressing said streaming media.

Evidence Appendix

None

Related Proceedings Appendix

None